

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

L TODD DIORIO, JEFFREY DIORIO, DEAN
TABURRI, et al.,

Plaintiffs,

-against-

CARDONA and SONDS, INC., and STEVEN
CARDONA,

Defendants.

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ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/4/17

No. 15-CV-07558 (NSR)

OPINION & ORDER

NELSON S. ROMÁN, United States District Judge

Plaintiffs, as Trustees and Fiduciaries of laborers', *inter alia*, pension, health care, and supplemental unemployment funds, commenced this action on or about September 24, 2015 asserting claims under the Employee Retirement Income Security Act of 1974. (*See* ECF No. 1.) Following Defendants' failure to appear and answer in the action, Plaintiffs obtained a default judgment against them on October 6, 2016. (*See* ECF No. 26.) On March 17, 2016, Plaintiffs served each named Defendant with information subpoenas pursuant to N.Y. C.P.L.R. R. 5224, via personal service. (*See* Plaintiffs' Motion to Compel Compliance (ECF No. 29) ("Plfs. Mot.") Ex. B.) Within seven days of receipt of the information subpoenas, Defendants were required to respond. N.Y. C.P.L.R. R. 5224(a)(3). Despite proper service, Defendants failed to respond to the subpoenas. Plaintiffs now move for a court order directing Defendants to comply with the subpoenas.

For good cause shown, Plaintiffs' Motion is GRANTED, without opposition, as follows:

ORDERED that Defendants, Cardona and Sons, Inc. and Steven Cardona, must respond to the information subpoenas, dated March 8, 2017, within twenty-one days of the entry of this Order.

If Defendants fail to fully comply fully with this Court's Order, Plaintiff may move, without leave of Court, for a contempt hearing to determine the appropriate sanctions to be levied for non-compliance, which may include imprisonment and/or fines in an amount to be determined by the Court.

The Clerk of the Court is respectfully directed to terminate the motion at ECF No. 29. This constitutes the Court's Opinion and Order.

Dated: December 4, 2017
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge